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| 08/747,471 | 11/12/96 | PALLEY | 30-3744CIP2 |

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| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3727 | |

DATE MAILED: 06/21/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/747,471

Applicant(s)
Palley et al.

Examiner
Niki M. Eloshway

Group Art Unit
3727



☒ Responsive to communication(s) filed on Apr 5, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-52 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-52 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8-13, 16, 17, 20-23, 25-31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis (U.S. 0,674,009) in view of Kolom (U.S. 5,054,635) and Prevorsek et al. (U.S. 5,545,455). Lewis discloses the claimed device except for the pin and loops and the band and pin material. Kolom discloses that it is known in the art to connect two ends with a pin extending through loops in each end (see figures 3-5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Lewis with the band ends being connected by a pin and loops, as taught by Kolom, in order to fasten the two band ends together more securely.

Kolom teaches that the pin is made of metal, such as aluminum, steel or titanium (see col. 4 line 68 - col. 5 line 2).

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Prevorsek et al. disclose that it is known in the art to make a container from the claimed fibers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the band and pin of the modified Lewis invention, made from the fibrous material disclosed in Prevorsek et al., in order to make a container with improved strength and penetration resistance.

Prevorsek et al. disclose that the fibers have a tenacity of at least 15 grams/denier and a tensile modulus of at least 300 grams/denier (see col. 7 ln. 14-22). In col. 7 ln. 62 - col. 8 ln. 16, Prevorsek et al. disclose that aramid fibers and glass fibers may be used to form the fibrous layers, and in col. 7 ln. 10-11 Prevorsek et al. disclose that polyolefin fibers may be used in the fibrous layer. The claimed matrix is disclosed in col. 8 ln. 17 - col. 9 ln. 38 of Prevorsek et al., in particular on line 3 of col. 9, a polyurethane matrix is disclosed.

4. Claims 7 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Kolom and Prevorsek et al., as applied to claims 1 and 17 above, and further in view of Sholl (U.S. 3,611,512). The modified device of Lewis discloses the claimed invention except for the pin being a rope. Sholl teaches that it is known to provide a pin made of rope (see element 22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified band of Lewis with the pin being made of rope, as taught by Sholl, in order to use less expensive material.

5. Claims 14-15, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Kolom and Prevorsek et al., as applied to claims 13 and 17 above, and further in view of Gettle et al. (U.S. 5,225,622). The modified device of Lewis discloses the claimed invention except for the blast mitigating material. Gettle et al. teach that it is known to provide a container with aqueous foam (see line 11 of the Abstract). It would have been obvious to one having ordinary skill in the art at the time the

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invention was made to provide the modified container of Lewis with the aqueous foam of Gettle et al., in order to attenuate pressure waves.

6. Claims 31-33, 35-43 and 46-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison (U.S. 3,093,259) in view of Prevorsek et al. Morrison discloses the claimed device except for the band and pin material. Prevorsek et al. disclose that it is known in the art to make a container from the claimed fibers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the band and pin of Morrison made from the fibrous material disclosed in Prevorsek et al., in order to make a container with improved strength and penetration resistance.

Prevorsek et al. disclose that the fibers have a tenacity of at least 15 grams/denier and a tensile modulus of at least 300 grams/denier (see col. 7 ln. 14-22). In col. 7 ln. 62 - col. 8 ln. 16, Prevorsek et al. disclose that aramid fibers and glass fibers may be used to form the fibrous layers, and in col. 7 ln. 10-11 Prevorsek et al. disclose that polyolefin fibers may be used in the fibrous layer. The claimed matrix is disclosed in col. 8 ln. 17 - col. 9 ln. 38 of Prevorsek et al., in particular on line 3 of col. 9, a polyurethane matrix is disclosed.

7. Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison in view of Prevorsek et al., as applied to claim 39 above, and further in view Gettle et al. The modified container of Morrison discloses the claimed invention except for the blast mitigating material. Gettle et al. teach that it is known to provide a container with aqueous foam (see line 11 of the Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Morrison with the aqueous foam of Gettle et al., in order to attenuate pressure waves.

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8. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison in view of Prevorsek et al., as applied to claim 39 above, and further in view of Sholl. The modified device of Morrison discloses the claimed invention except for the pin being a rope. Sholl teaches that it is known to provide a pin made of rope (see element 22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container of Morrison with the pin being made of rope, as taught by Sholl, in order to use less expensive material.

9. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolom in view of Sholl. Kolom discloses the claimed invention except for the pin being a rope. Sholl teaches that it is known to provide a pin made of rope (see element 22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified invention of Kolom with the pin being made of rope, as taught by Sholl, in order to use less expensive material.

10. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kolom in view of Prevorsek et al. Kolom discloses the claimed device except for the hinge material. Prevorsek et al. disclose that it is known in the art to make a container from the claimed fibers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hinge of Kolom made from the fibrous material disclosed in Prevorsek et al., in order to make a container with improved strength and penetration resistance.

Response to Arguments

11. Applicant's arguments filed April 5, 1999 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In*

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re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Regarding the Kolom reference the prior art hinge pin is made of the claimed metal material. In addition, the rejections above modify the pin material in view of the Prevorsek et al. materials to teach that it is known to make container elements of high strength fiber.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

13. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloschway whose telephone number is (703) 308-1606. Any inquiry of a general

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nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1148.



Niki M. Eloshway/nme
Patent Examiner
June 21, 1999



Allan N. Shoap
Supervisory Patent Examiner
Group 3700